

CLAIMS RESOLUTION TRIBUNAL

In re Holocaust Victim Assets Litigation
Case No. CV96-4849

Certified Award

to the Estate of Claimant [REDACTED 1]¹
represented by [REDACTED]

and to Claimant [REDACTED 2]
represented by [REDACTED]

in re Account of Ernst Geiger

Claim Numbers: 213586/KG;² 300221/KG; 601227/KG³

Award Amount: 49,375.00 Swiss Francs

This Certified Award is based upon the claim of [REDACTED 2] (“Claimant [REDACTED 2]”) to the account of [REDACTED],⁴ and upon the claims of [REDACTED 1] (formerly Ernst August Albert Geiger) (“Claimant [REDACTED 1]”) (together the “Claimants”) to the accounts of [REDACTED]⁵ and [REDACTED].⁶ This Award is to the unpublished account of Ernst Geiger (the “Account Owner”) at the Schwamendingen branch of [REDACTED] (the “Bank”).

¹ Claimant [REDACTED 1] passed away on 24 February 2002.

² Claimant [REDACTED 1] submitted additional claims to the account of [REDACTED], which are registered under the Claim Numbers 213584 and 213585. The Court approved an award to Claimant [REDACTED 1] for this account on 18 November 2004. See *In re Account of [REDACTED]*. Claimant [REDACTED 1] also submitted a claim to the account of [REDACTED], which is registered under the Claim Number 213587. The CRT will treat the claim to this account in a separate decision.

³ Claimant [REDACTED 1] submitted a claim, numbered B-00755, on 2 August 1998, to the Holocaust Claims Processing Office (“HCPO”) of the New York State Banking Department. This claim was referred by the HCPO to the CRT and has been assigned Claim Number 601227.

⁴ The CRT did not locate an account belonging to Claimant [REDACTED 2]’s relative, [REDACTED] (or [REDACTED]), in the Account History Database prepared pursuant to the investigation of the Independent Committee of Eminent Persons (“ICEP” or “ICEP Investigation”), which identified accounts probably or possibly belonging to Victims of Nazi Persecution, as defined in the Rules Governing the Claims Resolution Process, as amended (the “Rules”). Claimant [REDACTED 2] should be aware that the CRT will carry out further research on his claim to determine whether an award may be based upon the information provided by Claimant [REDACTED 2] or upon information from other sources.

⁵ The CRT did not locate an account belonging to Claimant [REDACTED 1]’s relative, [REDACTED], in the Account History Database prepared pursuant to the ICEP Investigation. Claimant [REDACTED 1] should be aware that the CRT will carry out further research on his claim to determine whether an award may be based upon the information provided by Claimant [REDACTED 1] or upon information from other sources.

⁶ The CRT will treat the claim to this account in a separate decision.

All awards are published, but where a claimant has requested confidentiality, as in this case, the names of the claimant, any relatives of the claimant other than the account owner, and the bank have been redacted.

Information Provided by the Claimants

Claimant [REDACTED 1]

Claimant [REDACTED 1] submitted a Claim Form identifying the Account Owner as himself. Claimant [REDACTED 1] stated that he was born on 4 August 1926 in Frankfurt am Main, Germany, and that his given name was Ernst August Albert. Claimant [REDACTED 1] further stated that his parents were [REDACTED] and [REDACTED], née [REDACTED], and that his family lived in Frankfurt am Main where his father owned an insurance agency. Claimant [REDACTED 1] indicated that he is Jewish, that he and his family fled Germany for Zurich, Switzerland, in May 1939, and that they emigrated to the United States in November 1939. Claimant [REDACTED 1] indicated that he obtained United States citizenship in 1945, at which time he changed his name to [REDACTED 1]. In support of his claim, Claimant [REDACTED 1] submitted documents, including his birth certificate, which indicates that his name at birth was Ernst August Albert Geiger, and his United States naturalization certificate, dated 29 August 1945, which indicates that his current name is [REDACTED 1].

Claimant [REDACTED 1] previously submitted an HCPO claim form in 1998 and an Initial Questionnaire (“IQ”) in 1999, asserting his entitlement to a Swiss bank account owned by his father, [REDACTED].

Claimant [REDACTED 2]

Claimant [REDACTED 2] submitted a Claim Form identifying the Account Owner as his father, Ernst Geiger, who was born on 2 December 1904 in Leikenbach, Austria, and was married to Dina Proweller. In a telephone conversation with the CRT on 21 February 2003, Claimant [REDACTED 2] indicated that his parents owned a tailor shop in Vienna, Austria, where the family resided. Claimant [REDACTED 2] further stated that in 1938, his father, who was Jewish, was warned by a friend who worked for the Gestapo that he could be deported, and so he fled Vienna for Zurich. Claimant [REDACTED 2] indicated that in 1939 the rest of his family followed Ernst Geiger to Zurich, where they lived for the duration of the Second World War. According to Claimant [REDACTED 2], his father returned to Vienna following the Second World War and, after divorcing his wife, [REDACTED], he remarried and had three additional children. Claimant [REDACTED 2] indicated that he does not know when his father died. In support of his claim, Claimant [REDACTED 2] submitted documents, including his birth certificate, indicating that his father was Ernst Geiger, and an extract from the Swiss central criminal records office, dated 1 May 1951, stating that Claimant [REDACTED] had no previous criminal convictions, and indicating that his father’s name was Ernst Geiger. The Claimant indicated that he was born on 24 August 1930 in Vienna.

Claimant [REDACTED 2] previously submitted two IQs with the Court in 1999, asserting his entitlement to a Swiss bank account owned by his mother [REDACTED], née [REDACTED], (formerly [REDACTED]).

Information Available in the Bank's Record

The Bank's record consists of a printout from the Bank's database. According to this record, the Account Owner was Ernst Geiger. In the field for the Account Owner's date of birth, the printout indicates 1 January 1920, but it is not clear that this is an actual date or merely a default date used by the Bank's database. The Bank's record indicates that the Account Owner held an account, the type of which is not indicated. The Bank's record indicates a balance of 0.95 Swiss Francs ("SF") but does not indicate a date of this balance. According to the Bank's record, the account was considered dormant by the Bank, and was transferred on an unknown date to a collective account for dormant assets where it remains today.

The CRT's Analysis

Joinder of Claims

According to Article 37(1) of the Rules Governing the Claims Resolution Process, as amended (the "Rules"), claims to the same or related accounts may be joined in one proceeding at the CRT's discretion. In this case, the CRT determines it appropriate to join the three claims of the Claimants in one proceeding.

Identification of the Account Owner

Claimant [REDACTED 1]'s name and Claimant [REDACTED 2]'s father's name matches the unpublished name of the Account Owner. The CRT notes that the Bank's record does not contain any specific information about the Account Owner other than his name and the questionable birth date. With regard to this date of birth, the CRT notes that the Bank's record contains no other information regarding the Account Owner, including nationality, occupation, or domicile. Given that the record contains so little standard information usually contained in records pertaining to holders of Swiss bank accounts, the CRT concludes that the date of birth indicated on the printout does not accurately reflect the Account Owner's true date of birth, but is, merely a default at the Bank's database.

In support of his claim, Claimant [REDACTED 1] submitted his birth certificate, and Claimant [REDACTED 2] submitted his birth certificate and an extract from the Swiss central criminal records office, providing independent verification that the persons claimed to be the Account Owner had the same name recorded in the Bank's record as the name of the Account Owner. The CRT notes that Claimant [REDACTED 1] was a child in the years leading up to the Second World War, but finds it possible that an account was opened in his name during this time.

The CRT notes that Claimant [REDACTED 1] and Claimant [REDACTED 2]'s relative are not the same person. However, given that the Claimants have identified all information about the Account Owner that is available in the Bank's record; that the information provided by each claimant supports and in no way contradicts any information available in the Bank's record; that there is no additional information in the Bank's record which would provide a basis for the CRT to make any further determinations as to the identity of the Account Owner; and that there are no other claims to this account, the CRT finds that Claimant [REDACTED 1] and Claimant [REDACTED 2] have each plausibly identified the Account Owner.

Status of the Account Owner as a Victim of Nazi Persecution

Claimant [REDACTED 1] has made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 1] indicated that he is Jewish, and that in 1939 his family fled Germany for Switzerland in order to escape Nazi persecution.

Claimant [REDACTED 2] has also made a plausible showing that the Account Owner was a Victim of Nazi Persecution. Claimant [REDACTED 2] stated that his father was Jewish and that he fled Austria for Switzerland in 1938 in order to escape Nazi persecution.

The Claimants' Relationships to the Account Owner

Claimant [REDACTED 1] has plausibly demonstrated that he is the Account Owner by submitting his birth certificate which indicates that he has the same first name and surname as the Account Owner.

Claimant [REDACTED 2] has plausibly demonstrated that he is related to the Account Owner by submitting specific information and documents, demonstrating that the Account Owner was his father. These documents include his birth certificate and an extract from the Swiss central criminal records register.

The Issue of Who Received the Proceeds

The Bank's record indicates that the account was transferred to a collective account for dormant assets where it remains today.

Basis for the Award

The CRT has determined that an Award may be made in favor of the Claimants. First, the claims are admissible in accordance with the criteria contained in Article 18 of the Rules. Second, Claimant [REDACTED 1] has plausibly demonstrated that he is the Account Owner, and Claimant [REDACTED 2] has plausibly demonstrated that the Account Owner was his father, and those relationships justify an Award. Third, the CRT has determined that neither the Account Owner nor his heirs received the proceeds of the claimed account.

Amount of the Award

In this case, the Account Owner held one account, the type of which is not indicated. The CRT notes that while a balance of SF 0.95 is indicated in the Bank's record, no date for this balance is shown and therefore the CRT is treating this account as an account of unknown value. Pursuant to Article 29 of the Rules, when the value of an account is unknown, as is the case here, the average value of the same or a similar type of account in 1945 is used to calculate the current value of the account being awarded. Based on the investigation carried out pursuant to the instructions of the Independent Committee of Eminent Persons ("ICEP" or the "ICEP Investigation"), in 1945 the average value of an unknown type of account was SF 3,950.00 Swiss Francs. The current value of this amount is calculated by multiplying it by a factor of 12.5, in accordance with Article 31(1) of the Rules, to produce a total award amount of SF 49,375.00.

Division of the Award

According to Article 26 of the Rules, in cases where the identity of the account owner cannot be precisely determined due to the limited information contained in the bank documents, and where several unrelated claimants have established a plausible relationship to a person with the same name as the account owner, the award will provide for a pro rata share of the full amount in the account to each claimant or group of claimants who would be otherwise entitled under the Rules. In this case, each Claimant has established a plausible relationship to a person with the same name as the Account Owner. Accordingly, Claimant [REDACTED 1] and Claimant [REDACTED 2] are each entitled to one-half of the Award amount.

Scope of the Award

The Claimants should be aware that, pursuant to Article 20 of the Rules, the CRT will carry out further research on their claims to determine whether there are additional Swiss bank accounts to which they might be entitled, including research of the Total Accounts Database (consisting of records of 4.1 million Swiss bank accounts which existed between 1933 and 1945).

Certification of the Award

The CRT certifies this Award for approval by the Court and payment by the Special Masters.

Claims Resolution Tribunal
21 September 2005